

**Asheville City Council Meeting Minutes  
Tuesday – January 16, 2007 - 5:00 p.m.**

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; Assistant City Attorney Martha McGlohon; and City Clerk Keisha Lipe

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Freeborn gave the invocation.

**I. PROCLAMATIONS:**

**A. RECOGNITION OF DR. MARTIN LUTHER KING JR. DAY**

Mayor Bellamy recognized January 15, 2007, as "Dr. Martin Luther King Jr. Day."

**II. CONSENT AGENDA:**

Councilman Mumpower asked that Consent Agenda Item "I" be removed from the Consent Agenda for discussion.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 9, 2007**

**B. RESOLUTION NO. 07-09- RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH BUCKEYE CONSTRUCTION COMPANY FOR NEIGHBORHOOD ENHANCEMENT WATER SYSTEM IMPROVEMENTS PHASE II PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Buckeye Construction Company in the amount of \$ 1,062,966 for Neighborhood Enhancement Water System Improvements Phase III Project and the associated budget amendment.

Sealed informal bids were received by the Water Resources Department on November 7, 2006 for the Neighborhood Enhancement Water System Improvements Phase III. Three bids were received with Buckeye Construction Company submitting the low bid price of \$ 1,062,966. A summary of all bids received follows:

**NEIGHBORHOOD ENHANCEMENT WATER SYSTEM IMPROVEMENTS PHASE III**

Buckeye Construction Company Canton, North Carolina	\$ 1,062,966.00
Payne, McGinn & Cummins, Inc.	\$ 1,182,677.50

Travelers Rest, South Carolina

EMATS, Inc.  
Cedar Bluff, Virginia

\$ 1,435,892.50

These bids have been reviewed by McGill Associates, the engineer for the project, and McGill has recommended award of the low bids to Buckeye Construction Company. The bids have been reviewed by the Office of Economic Development for compliance with the City of Asheville's Minority Business Program and Ms. Brenda Mills, Coordinator, indicates that the bids received conform to the City's Minority Business Plan.

PRO:

- This project involves the installation of approximately 13, 100 linear feet of 6-inch and 8-inch waterlines on eight (8) different streets within the water service area; replacing an equal amount of old 2-inch waterline. These new waterlines will dramatically improve water service to existing customers, provide fire protection for the adjoining properties and reduce maintenance and operation expenses. Approximately \$ 600,000 of grant funds is appropriated for this project. This money will be lost if it is not expended on this project.

CON:

- Failure to approve award of this contract will result in the loss of approximately \$ 600,000 of State grant funds. This loss would delay the replacement of these old, undersized waterlines which are in very poor shape and are causing customer service issues.

City staff recommends City Council approve a resolution authorizing the City Manager to sign a contract with Buckeye Construction Company in the amount of \$ 1,062,966.00 for Neighborhood Enhancement Water System Improvements Phase III Project and the associated budget amendment.

**RESOLUTION BOOK NO. 30 – PAGE 184**

**C. ORDINANCE NO. 3431 - BUDGET AMENDMENT TO REFLECT REPROGRAMMING FUNDING FOR THE BUCKEYE CONSTRUCTION COMPANY'S CONTRACT FOR THE WATER RESOURCES DEPARTMENT**

Summary: See Consent Agenda "B" above.

**ORDINANCE BOOK NO. 23 - PAGE**

**D. RESOLUTION NO. 07-10 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH HOBSON CONSTRUCTION COMPANY FOR THE US 70 WATERLINE BRIDGE CROSSING AND THE HOMINY CREEK WATERLINE CROSSING PROJECTS**

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Hobson Construction Company, in the amount of \$ 261,001.30, for the US 70 Waterline Bridge Crossing and the Hominy Creek Waterline Crossing Projects and the associated budget amendment.

Sealed informal bids were received by the Water Resources Department on November 30, 2006 for the US 70 Bridge Crossing and the Hominy Creek Bridge Crossing. Two bids were received for each project and are summarized as follows:

US 70 WATERLINE BRIDGE CROSSING

Hobson Construction Company           \$ 36,701.30  
Arden, North Carolina

Buckeye Construction Company       \$ 166,994.00  
Canton, North Carolina

HOMINY CREEK WATERLINE CROSSING

Hobson Construction Company       \$ 224,300.00  
Arden, North Carolina

Buckeye Construction Company       \$ 280,300.65  
Canton, North Carolina

These bids have been reviewed by McGill Associates, the engineer for the project, and McGill has recommended award of the low bids to Hobson Construction Company. The bids have been reviewed by the Office of Economic Development for compliance with the City of Asheville's Minority Business Program. In a letter, Brenda Mills, Minority Business Coordinator, approves the minority outreach efforts by both Hobson and Buckeye for these projects.

PROS:

- During the storm resulting from hurricane Francis, the waterline under the Swannanoa River at the US 70 bridge over the Swannanoa River was washed out. This waterline was replaced temporarily with a waterline on the deck of the bridge. The N.C. Dept. of Transportation (NCDOT) is pressing for this temporary waterline to be removed and installation of this new permanent 8-inch waterline under the bridge will accomplish that.
- The Water System Master Plan includes a 24-inch waterline on Brevard Road. Portions of this waterline have been completed and others will be completed in the upcoming NCDOT project to widen Brevard Road from I-40 to I-26. The small section of 24-inch waterline included in this project is necessary to complete this eventual Brevard Road transmission line which will address current serious water flow issues on Brevard Road.

CONS:

- Failure to proceed with the installation of the 8-inch waterline on the US 70 Bridge will result in the loss of a significant feed on the eastern side of our distribution system. NCDOT will require that we remove the temporary waterline from the deck of the bridge and without its replacement this water supply will be lost.
- Connection of a 24-inch transmission main between the water supplies of Mills River and North Fork is in the current Water System Master Plan. Without this part of that transmission main, the ability to transfer water between these two (2) supplies will be limited and the existing fire flow deficit on Brevard Road will not be addressed.

City staff recommends City Council approval of a resolution authorizing the City Manager to sign a contract with Hobson Construction Company, in the amount of \$ 261,001.30, for the US 70 Waterline Bridge Crossing and the Hominy Creek Waterline Crossing Projects and the associated budget amendment.

**E. ORDINANCE NO. 3432 - BUDGET AMENDMENT TO REFLECT REPROGRAMMING FUNDING FOR THE HOBSON CONSTRUCTION COMPANY'S CONTRACT FOR THE WATER RESOURCES DEPARTMENT**

Summary: See Consent Agenda "D" above.

**ORDINANCE BOOK NO. 23 - PAGE**

**F. RESOLUTION NO. 07-11 - RESOLUTION APPROVING AN ACQUISITION FOR PARCEL 3 IN THE AZALEA ROAD/SWANNANOVA RIVER GREENWAY PROJECT**

Summary: The consideration of a resolution approving an acquisition for parcel three in the Azalea Road/Swannanoa River Greenway Project.

Negotiations for certain real property in the Hominy Creek/Amboy Road Greenway Project have produced an agreement that proposes an increase in Just Compensation in order to acquire the property.

The Azalea Road/Swannanoa River Greenway Project begins at Azalea Road Park and follows the East bank of the Swannanoa River to Gashes Creek Road and then crossing the Swannanoa River it crosses Gashes Creek Road and follows Gashes Creek Road to Swannanoa River Road then turning North follows Swannanoa River Road for a distance of about 800 feet. The proposed trail will be paved and about twelve (12) feet wide.

The project proposes easements over 9 parcels, 5 of which have been acquired. Negotiations are being pursued on the remaining 4 easements. An agreement has been reached on one of the easements which proposes an increase in the just compensation in exchange for a fee simple conveyance instead of an easement.

The agreement on Parcel 3, owned by Viewpointe Homeowners Association (VHA), (PIN 9668.09-15-4163) calls for payment of \$6,130 for fee simple conveyance of the easement area instead of by easement. The proposed acquisition was for an easement, but the negotiations snagged over the question of liability. The proposed fee simple purchase of the property resolves the VHA concerns. The original offer for the easement based on an appraisal dated August, 2004, was \$2,500. The proposed settlement was derived as follows: the appraisal of the Viewpointe property dated 8/16/2004 estimates the fee value of the affected portion of the property was \$5,066. Because the acquisition will be fee simple instead of an easement, the fee value of \$5,066 has been updated at a rate of 10% per year increase for the two years since the appraisal rendering the sum of \$6,130.

Just Compensation was established December 7, 2004, based on appraisals by Benjamin Beasley, MAI and reviews by Joseph Moore. The proposed increase is as follows:

Parcel #	Total Area (acres)	Easement (acres)	Easement Just Compensation	Fee Simple Just Compensation
3	9.51	0.106	\$2,500	\$6,130

Approval of the resolution will increase Just Compensation for fee simple acquisition of the easement area over parcel 3 in the Azalea Road/Swannanoa River Greenway and approve the proposed agreement.

PROS:

- A significant portion of the greenway trail will be acquired.
- The proposed increase in Just Compensation is fair and reasonable.
- The fee simple acquisition will eliminate a property owner concern.
- The agreement is voluntary and does not involve eminent domain.

CON:

- The only negative is a fee simple acquisition removes the property from the tax rolls whereas an easement would not.

Economic Development staff recommends adoption of a resolution approving a resolution approving an acquisition for parcel three in the Azalea Road/Swannanoa River Greenway Project.

**RESOLUTION BOOK NO. 30 – PAGE 186**

**G. RESOLUTION NO. 07-12 - RESOLUTION APPROVING AN ACQUISITION FOR EASEMENTS OVER PARCELS 9 AND 12 IN THE HOMINY CREEK/AMBOY ROAD PROJECT**

Summary: The consideration of a resolution approving an acquisition for easements over Parcels 9 and 12 in the Hominy Creek/Amboy Road.

Negotiations for Certain parcels in the Hominy Creek/Amboy Road Greenway Project have produced an agreement that proposes an increase in Just Compensation in order to acquire the property.

The Hominy Creek/Amboy Road Greenway Project begins at the West end of Carrier Park and follows Amboy Road and the West bank of the French Broad River to Hominy Creek Park. It is generally a crescent shape approximately 1 mile in length and averages about 20 feet wide. The proposed trail will be paved and about 12 feet wide. It will be installed generally in the same location as an existing unofficial foot path used by fishermen and hikers. All of the land within the project is in the flood plain.

The project proposes easements over 9 parcels. Three of the easements have been acquired including the two largest parcels comprising over half of the trail distance. Negotiations are being pursued on the remaining easements. Agreements have been reached with two property owners which propose an increase in the just compensation as follows:

The agreement on Parcel 9, owned by Tony Wilson, (PIN 9638.18-30-0014) calls for a cash payment of \$6,500 and incidental site improvements consisting of a paved driveway valued at about \$36,000 for a total package value of \$42,500. .

The agreement on Parcel 12, owned by Max and Flora Wilson, (PIN 9638.18-40-1264) calls for a cash payment of \$3,500 and incidental site improvements consisting of a paved parking area valued at about \$13,500 for a total package value of \$16,500. .

The additional pavement is incidental to the greenway construction and will be included at the time of construction of the greenway. The pavement will contribute to stabilization of driveways and parking areas adjacent to the greenway.

Just Compensation was established December 7, 2004, based on appraisals by Benjamin Beasley, MAI and reviews by Joseph Moore. The proposed increases are as follows:

Parcel #	Total Area (acres)	Easement (acres)	Established Just Compensation	Proposed Just Compensation
9	2.85	0.49	\$5,200	\$6,500
12	2.25	0.11	\$2,300	\$3,500

Approval of the resolution will increase Just Compensation for the easements over parcels 9 and 12 in the Hominy Creek/Amboy Road Greenway and approve the proposed agreements.

PROS:

- A significant portion of the greenway trail will be acquired.
- The proposed increase in Just Compensation is fair and reasonable.
- The additional pavement proposed will contribute to the stability of the area immediately around the trail and enhance the trail experience.
- The agreements are voluntary and do not involve eminent domain.

CON:

- The only negative is that the cost of asphalt is likely to increase in the future, as would construction cost in general.

Economic Development staff recommends adoption of a resolution approving an acquisition for easements over Parcels 9 and 12 in the Hominy Creek/Amboy Road.

**RESOLUTION BOOK NO. 30 – PAGE 187**

**H. RESOLUTION N O. 07-13 - RESOLUTION ACCEPTING DEDICATION OF TRIPLE H DRIVE IN THE SAND HILL ROAD AREA TO BECOME A PUBLICLY MAINTAINED STREET**

Summary: The consideration of a resolution accepting dedication of Triple H Drive in the Sand Hill Road area to become a publicly maintained street.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

Triple H Drive is a developer-constructed street that has an average paved width of 24.5 feet and a length of 0.15 miles. Engineering Department Staff inspected this street and finds it to be constructed in accordance with the approved standards.

Following City Council’s approval of this resolution, Triple H Drive will be added to the official Powell Bill list. A two-year warranty, from the time of Council acceptance, will be required by the developer to cover major failures in the roadway.

Pros:

- The City will receive Powell Bill funds from the N.C. Dept. of Transportation to maintain the roadway.
- Homes will be constructed on this roadway increasing the tax base in the City of Asheville.

Con:

- Powell Bill funds will not cover 100% of the cost to maintain the street.

City staff recommends City Council adopt a resolution accepting dedication of Triple H Drive in the Sand Hill Road area to become a publicly maintained street.

**RESOLUTION BOOK NO. 30 – PAGE 188**

**I. RESOLUTION AUTHORIZING THE PURCHASE OF STREET LIGHTING FOR BILTMORE VILLAGE FROM A SOLE SOURCE UTILIZING NC RURAL CENTER GRANT FUNDS**

This item was removed from the Consent Agenda for discussion.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Davis moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Freeborn and carried unanimously.

**ITEMS PULLED OFF THE CONSENT AGENDA FOR DISCUSSION**

**RESOLUTION NO. 07-14 - RESOLUTION AUTHORIZING THE PURCHASE OF STREET LIGHTING FOR BILTMORE VILLAGE FROM A SOLE SOURCE UTILIZING NC RURAL CENTER GRANT FUNDS**

Summary: The consideration of a resolution authorizing the purchase of street lighting for Biltmore Village from a sole source utilizing NC Rural Center Grant Funds.

The goal of the Biltmore Village Development Plan is to preserve and restore the original pedestrian oriented design of Biltmore Village. The guidelines for the Village require that new lighting in pedestrian areas of the Village be in the historic style with underground wiring. City staff and Biltmore Village merchants have worked to have the historic lighting reproduced and made available to the general public. The manufacturer and sole source of supply for this lighting is Jefferson Lighting and Brassworks of Lynchburg, Virginia. Their product line is distributed in North Carolina by L.A.M.P.S., Inc. of Knightdale.

NC General Statute Article 143-129 identifies the procedures for the letting of formal public contracts and includes exceptions to the requirements of the Article. Section (e)(6) of those procedures states that the governing body of a political subdivision of the State shall approve the purchase of apparatus, supplies, materials or equipment when “(ii) a needed product is available from only one source of supply or (iii) standardization or compatibility is the overriding consideration.”

**PROS:**

- Utilization of the sole source award exception to formal bidding processes as allowed under 143-129(e)(6) will permit materials to be received for timely installation.
- Utilization of the sole source award exception to formal bidding processes will maintain compatibility and standardization of the historical aesthetics of Biltmore Village
- All new and retrofitted Biltmore Village lights will have a 250 watt metal halide lamp which will provide increased night visibility and safety to pedestrians and vehicles.

**CON:**

- In order to maintain historical infrastructure there are severe limitations to competitive bidding. Since the Biltmore Village light is a customized specification and there is only one supplier, it is difficult to ascertain if the pricing received is “fair”

Staff recommends Council approval of a resolution authorizing the purchase of street lighting for Biltmore Village from a sole source utilizing NC Rural Center Grant Funds.

Councilman Mumpower was concerned that there is no cost sharing involved by the businesses and others who profit from the existence of the village and also the use of state tax supported dollars.

Upon inquiry of Mayor Bellamy, Planning & Development Director Scott Shuford explained how the money being allocated is through a planning grant we received regarding the flooding issue.

Vice-Mayor Jones moved for the adoption of Resolution No. 07-14. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting “no.”

### RESOLUTION BOOK NO. 30 – PAGE 190

#### III. PRESENTATIONS & REPORTS:

##### **A. ASHEVILLE FILM COMMISSION PRESENTATION**

Ms. Alison Watson, Chair of the Asheville Film Commission (AFC), said that the mission of the Asheville Film Commission is to support the city as a “film friendly” town and to support media arts in the area. The AFC will support the WNC Film Commission; URTV’s Public Access Station and the Media Arts Project and assist local filmmakers in finding resources and promoting their work, through our WNC Film Seeds Program.

She reviewed the following accomplishments from 2006:

- **Successfully launch the WNC Film Seeds Program** - This is a program that collects vouchers from local businesses (food, hotel rooms, printing, equipment rentals, general discounts) and will be given to low budget films in the area to offset costs.
- **Advocacy and support to Feature Films** - The AFC brought a proposal to city council to waive meters and barricades, bringing a \$1.5 million feature to Asheville. The AFC assisted four other films shot in the area by finding equipment, helping in location scouting and hiring crew.
- **Support of the Asheville Film Festival** - Assisted in finding sponsors and creating awards for the AFF. Volunteered at events and parties. Served as an advisory board and general liaison.
- **Support of URTV’s Public Access** - The AFC was responsible for a membership drive among board members. We also contacted groups in the community to provide content.
- **Support the Media Arts Project and HUB Goals** - Volunteered at Off the MAP events held at the Fine Arts Theatre. Helped in placing local talent with full-time and contract jobs in the media arts industry that the MAP advertised. Worked with the MAP on how to best serve HUB goals for economic development when dealing with film and the media arts community.

- **Support the 48 Hour Film Project** - Volunteered during the event and screenings to follow. Assisted in promoting the event.

She then outlined the goals of the Film Commission, being: (1) Continue supporting the WNC Film Commission; (2) Continue supporting the MAP and URTV; (3) Launch a new website; (4) Advertise and take applications for the WNC Film Seeds Program; and (5) Assist local filmmakers and films in the area through advocacy and industry connections.

Ms. Watson explained why she felt the Film Commission should be placed in the Economic Development Department other than in the Parks & Recreation Department.

Ms. Watson and Mr. Butch Kisiah, Superintendent of Recreation, responded to various questions/comments from Council, some being, but are not limited to: what is the Film Commission's role with the Film Festival planning; what is the Film Commission's perspective in collaborating with others who would like to get into the film festival business; regarding the start-up time of the Film Festival, are there any plans to start sooner than after the Bele Chere Festival; where does the dialogue for the Film Festival happen; and should the Film Festival remain a City responsibility or should we out-source the Festival.

City Manager Jackson said that he would provide Council with a report regarding a proposal from AdvantageWest regarding the Film Festival.

Mayor Bellamy announced that on the fifth Tuesdays of any month, we will have the opportunity for the community to talk about certain issues. Starting this month, one of the first topics will be Bele Chere. After hearing the public comments, Council can decide the direction on those issues either by staying the course or going in a different direction.

At the request of Vice-Mayor Jones, it was the consensus of Council to instruct the City Manager to investigate the pros and cons of the moving the Film Commission out from Parks & Recreation Department into Economic Development Department and to provide Council with a report.

On behalf of City Council, Mayor Bellamy thanked Ms. Watson and the entire Film Commission for their hard work.

#### **IV. PUBLIC HEARINGS:**

#### **V. UNFINISHED BUSINESS:**

##### **A. GREENLIFE GROCERY/MAXWELL STREET RECOMMENDATIONS**

Councilman Newman and Councilman Freeborn said that this is an update to City Council on their progress related to Greenlife Grocery and mitigating truck traffic on Maxwell Street.

Councilman Newman said that since December, 2006, they have been working with City staff to explore alternatives for reconfiguring Greenlife's delivery area as well as traffic calming alternatives for Maxwell Street. Their goals were (1) to look at possible design ideas to restore more of the buffer on Maxwell Street; and (2) to get the large trucks off Maxwell Street as well as their maneuvering on Maxwell Street to get to the loading dock. They also looked at ways to restore the residential parking on Maxwell Street and they also looked into the site visibility triangle concern. We have discussed these options with the owners of Greenlife Grocery, members of the community, as well as the owners of the property on which Greenlife is located. This is no means a perfect solution to the concerns, but it seems to go a long way towards

addressing them. If the option for redesign of the loading dock is what Council is interested in, there would need to be a rezoning process for one lot next door to Greenlife which will need to go through the Planning & Zoning Commission.

Councilman Freeborn explained the two options. The preferred option is to reconfigure Greenlife's driveway and parking lot so that large trucks would enter and maneuver into Greenlife's loading area without entering Maxwell Street or the adjacent sidewalk. This option would also entail reconfiguring and bolstering the buffer between Greenlife and Maxwell Street. Essentially it will give us a 17-foot buffer and will remove large trucks from Maxwell Street. The current entrance on Maxwell Street would be shifted and become part of the buffer. This option will need to go through the rezoning process. The second option is traffic calming. We could put in traffic calming measures along Maxwell Street that would make it physically impossible for large trucks to be on Maxwell Street and impossible for them to maneuver the trucks back into the loading dock. Staff feels the traffic calming measures would cost approximately \$30,000 and if Council chooses to pursue that option, staff will have to come back with a design and an actual budget request. He asked that Council listen to the proposals along with public comment and then decide on which option they would like to proceed with.

Using a site plan, Assistant Director of Planning & Development Shannon Tuch presented detailed information on the Greenlife's site reconfiguration regarding buffering, privacy fence, relocation a small house, reconfiguration of the loading dock and parking.

Using a map, Traffic Engineer Ken Putnam presented information about alternative traffic control measures for Maxwell Street should loading area reconfiguration not be the option Council wants to pursue. Essentially, there would be a median island in the curve that would physically block the large trucks from accessing Maxwell Street or making any backing maneuver on it. In addition, at Broadway there could be a gateway island that would also restrict large truck movements onto Maxwell Street as well. In doing that, there would be some removal of parking spaces to accommodate the islands.

Councilman Newman reiterated that the preferred option would be redesigning of the loading dock. And if that option moves forward, then the traffic calming approach is not necessary. A couple of more items that can be looked at, as the process goes forward, is to get all of the commercial trucks off Maxwell Street and with this general design idea, it may be possible to redesign the loading dock so that the smaller delivery trucks also come in off of Merrimon Avenue. But doing that might mean the buffer in that area of the store would need to be reduced because you would need to have room for two different kinds of trucks to park there. One scenario is you would still have smaller delivery trucks on Maxwell Street with a bigger buffer and the other one would be all the trucks off Maxwell Street but the buffer would be somewhat compromised. These scenarios are still a work in progress.

Councilman Freeborn said that if Greenlife decides they want to pursue the reconfiguration of the loading dock option, it is their recommendation that they submit an application for rezoning and site redesign within 30 days of this meeting and if they do not submit that application that Council agree to look at the traffic calming at the February 27, 2007, meeting.

Throughout considerable discussion, Councilmen Freeborn and Newman and City staff responded to various questions/comments, some being, but are not limited to: why not use both options; how do you avoid staging on Maxwell Street; how will the truck drivers be made aware of the changes; could we still restrict large trucks from entering Maxwell Street via traffic calming measures in addition to the reconfiguration of the load dock option; the island at the end of Maxwell Street would not be user friendly for cars; could we make Maxwell Street a one-way street and they couldn't turn off of Broadway; when the truck manipulation software was used for the loading dock reconfiguration, was it charted for the trucks to get getting back out of the

loading dock; concern that after the expense of the reconfiguration of the loading dock takes place, residents may still have concerns with the smaller trucks, noise, etc. from Greenlife; where will the staging of the trucks take place; maybe not relocate the small house but demolish it all together and use that relocation area to stage other trucks off Merrimon Avenue; safety concerns of pedestrians and vehicles when large trucks are maneuvering in the parking lot near the front door of Greenlife; suggestion to have the area where the small house is located designated for unloading of small trucks and have them cart their produce across the parking lot to Greenlife; how often do tractor trailers and some straight trucks back into the loading dock; and if we asked Greenlife to put in two bays, what would be a minimum buffer.

Mr. John Swann, owner of Greenlife, addressed some of the concerns addressed by Council. He said that large trucks do not use Maxwell Street to approach the loading dock or for staging. Their procedure now is that when a large truck comes in, the manager goes out into the parking lot and he guides the truck. With the new configuration, they do have the opportunity to continue that procedure. Regarding staging, we do have the ability, and have done so on occasions, to waive the truck off and tell them to come back at a later time. We will work harder on scheduling the deliveries. Most supermarkets operate with a primary supplier that supplies 80-95% of the product in the store, however, Greenlife's primary vendor supplies them with about 35% of the products, noting they have 400 vendors that they buy from. This plan takes tractor trailers off Maxwell Street and moves the entrance over. This plan does not address the straight trucks, except we may be able to squeeze in a secondary ramp by the loading dock so that small trucks (van size trucks) can do the pallet-loads off the truck. We still have the issue of compactors in the back that still need to be serviced and the small truck deliveries. Regarding unloading the smaller trucks in another area and carting the produce across the parking lot, it is not feasible to do that since they buy tractor trailer loads full of produce. They have looked at satellite facilities and it is not economically feasible to do that due to issues regarding material handling, liability, timing and the number of trucks it takes for a satellite facility.

In response to Mayor Bellamy's request that no trucks be allowed on Maxwell Street, Mr. Swann said that their plan removes tractor trailers on Maxwell Street which is about 1/3 of the truck traffic that Greenlife receives. The other 2/3's are small trucks that are unloaded by hand.

Councilman Freeborn said that he and Councilman Newman were working under the assumption that it was the large trucks that were a concern of the community and they did not address small trucks.

When Mayor Bellamy asked if Councilmen Freeborn and Newman would look at this issue again to address some of the concerns raised, Councilman Freeborn felt they needed direction from Council on whether small delivery trucks could travel on Maxwell Street.

In response to Councilwoman Cape, Ms. Tuch explained the buffering to accommodate the additional second loading area for a smaller truck in the same space. The option calls for 17 feet of buffer and we would need an 8 feet for that second loading area. That would leave us with 9 feet of buffer and the minimum width requirements without alternative compliance is 10 feet. They would have to get alternative compliance and this probably isn't the best site to consider alternative compliance. Mr. Swann also responded that there are two large trees that they are trying to not cut down and if you add any more width, we will get into the possibility of having to cut the trees.

Councilman Davis wondered if Greenlife could use the existing dock with the buffer for the smaller deliveries and build a walkway and a one bay on the south end of the store that could be accessed by large trucks. Mr. Swann responded that they looked at that option in depth. The problem is that corner of the building is the grade, which is about 15 feet above Bourdeau Street. Not only is it very expensive, in order to get the large trucks to that location would eliminate most

of the parking area in the parking lot. In addition, we are beginning the thoughts of expanding the store and if we do, that would be the area they would expand into.

Mr. Benjamin Gilliam liked the proposal to get the large trucks off Maxwell Street. He suggested a building a second dock for the small trucks on the south end of the building about half the length of the building, so the topography would not be so steep.

Mr. Fred English suggested making Maxwell Street one-way.

Ms. Hillary Stewart, resident on Maxwell Street, was concerned about the other 2/3 trucks on Maxwell Street.

Upon inquiry of Vice-Mayor Jones, Mr. Swann said that he is amenable with the reconfiguration of the loading dock, however, it does not solve the problem of straight trucks.

In response to Vice-Mayor Jones, Mr. Swann said that if an expansion should occur, they would pull the retail part of the store in the south end direction, leave the back end the same, and turn the café' into a loading bay.

There was a brief discussion of the David Owen's report regarding City Council's ability in this case to prohibit trucks off residential streets. Mayor Bellamy said that we can do something with traffic calming, but we can't reclassify Maxwell Street because the project is already in place and received the proper permits.

When Councilman Freeborn asked if City Council has the authority to redesign a street, Assistant City Attorney McGlohon said that Council does have the authority to regulate local streets. However, there may be some concerns with inverse condemnation issues of state control and whether or not the state has attempted to preempt local control as it relates to interstate commerce, where you go to the point of restricting traffic on local streets to the point that the business cannot make a reasonable use of that street.

Councilman Freeborn wondered if we could instruct City staff to bring something back to Council on February 27, 2007, that shows a street redesign of Maxwell Street taking all trucks off Maxwell Street.

Councilman Newman said that if the majority of Council feels that no design should be considered that doesn't get all delivery trucks off Maxwell Street, then that would be helpful to know. It was his impression that the main goal was to get all large trucks off Maxwell Street, with a sub-goal of getting all trucks off Maxwell Street.

Councilman Mumpower said the compromise is to get the large trucks off Maxwell Street, not all trucks and felt that was fulfilled by this option with room for improvement.

Mayor Bellamy noted that small trucks have to service Greenlife for trash and recyclables. Councilman Freeborn agreed that City Sanitation trucks have to pick up trash for the Maxwell Street residents as well.

Assistant City Attorney McGlohon said that Council may want to instruct the legal staff to research the issue of prohibiting all service trucks on residential streets, given that Council does have the authority to regulate streets. There appears to be a middle area where there may be some state control or federal regulations as it relates to interstate commerce.

Councilwoman Cape supported all trucks off Maxwell Street and a smaller buffer with a variance.

Councilman Davis didn't think that we can keep all small trucks off Maxwell Street. Since he didn't think there was going to be 100% satisfaction by the residents and Greenlife, getting to the middle ground of the getting the large trucks off Maxwell Street is a good direction.

It was the consensus of Council to instruct the City Manager to prepare a memorandum to City Council before February 27, 2007, regarding clarification on our signs and what we are trying to do with the no truck signs on Maxwell Street.

Councilman Freeborn said that they report back to Council on February 27, 2007, and encouraged anyone with ideas to contact him.

## **B. STAPLES UPDATE**

Mayor Bellamy said she was charged with sending a letter to Staples requesting a written response regarding the building's signage, landscaping and pedestrian amenities by December 31, 2006. On January 2, 2007, she received confirmation from Ms. Mylissa Tsai that Staples had received the letter and was developing a response. She read the following letter which was received today from Mr. Ted Frumkin, Vice-President, Real Estate, Staples: "Since Staples arrived in Asheville, we have made great efforts to consider and include input from city residents, our neighbors and various special interest groups regarding our store. I am writing to update you on our response to your letter. We are excited to share that we plan to enhance our property with a new landscaping design. A detailed plan will be available shortly. It incorporates a majority of the suggestions recommended by the local landscape designer hired by our Asheville charity partner, Quality Forward. The design will include a green screen along the brick wall to soften the look from the street, which has been the source of comment. The new landscaping will also enhance the experience of those pedestrians who use the sidewalk along our store. We are confident that Asheville residents will be pleased with the design. It is Staples policy to work with each community that we enter when coming up with a building design and site plan. We have and will continue to adhere to the building codes of the communities where we do business including Asheville. As you are aware, our real estate and construction teams worked closely with the city building officials and design review board of Asheville in the design and construction of our store. We gladly made changes to our original design to meet their input and satisfy their requirements. We received all required permits and approvals in the construction of our store, its signage and surround areas. We seriously considered all input from the citizens groups in Asheville before deciding on a final plan of action. We feel that even the most drastic changes to our building and signage will not satisfy every citizen. In exploring the request to change our signage, we found that it would require significant investment. Therefore, we do not plan to change a sign that was approved by the city, and according to our local lawyer, is in compliance with all of Asheville codes. It is a privilege to be a part of the Asheville community. Contrary to some of the recent publicity, our store is enjoying strong sales and good comments from our local customers. Our store has created jobs and benefits small businesses, students and educators in Asheville. We will continue to focus our efforts on contributing to the greater good of Asheville - by fostering small business growth, supporting youth and education, encouraging recycling, and more. Since we believe well-received, we are happy to work with you to announce this news. Please feel free to call me at (508) 253-0542 or Mylissa Tsai in our Public Relations Department at (508) 253-4648 with any questions."

It was the consensus of City Council to schedule a closed session with our City Attorney to discuss the City's options in bringing the sign into compliance with our existing ordinance.

## **C. PRESENTATION FOR PUBLIC ARTIST OF THE YEAR PROGRAM**

**RESOLUTION NO. 07-15- RESOLUTION TO ACCEPT THE GUIDELINES FOR THE “PUBLIC ARTIST OF THE YEAR” COMPETITION OF THE PUBLIC ART BOARD**

Mr. Kenn Kotara, Vice-Chair of the Public Art Board, said that the Public Art Board is requesting City Council’s approval of a resolution to accept the guidelines for the “Public Artist of the Year” competition of the Public Art Board.

The Public Art Board unanimously approved the establishment of the “Public Artist of the Year” competition that will recognize an artist or group of artists that have significantly contributed to public art in Asheville. The program will result in the commissioning of an art piece designated for a prominent location in Pritchard Park specifically designed for public art.

The artwork will be valued at \$10,000 or more and will be located at the west end of the Pritchard Park that is high in pedestrian traffic and utilizes the existing outdoor space framed by the park’s architecture. Funds to support the project have been generated from an outside funding source.

PROS:

- Recognizes the significant contributions of the arts and artists on the creatively unique culture of Asheville
- Contributes to the city’s art collection
- Enhances the appeal of Pritchard Park and improves the western gateway to the downtown area
- Encourages involvement of local businesses and corporations in the city’s public art program and its process
- Demonstrates the commitment of the city to support the arts and artists in the region and community

CONS:

- Lack of inclusion of all artistic genres

This recommendation is keeping with the City of Asheville Strategic Plan by contributing to the: (1) “Livability” of Asheville by recognizing the importance of the arts and artists on the life of the City of Asheville; (2) “Sense of Place” of Asheville and the need to educate citizens and visitors of its uniquely artistic and creative character and contributions of local citizens through the arts; (3) “Vibrancy” of Asheville’s art scene and its commitment to the development and enhancement of the public art collection; and (4) “Participation” of Asheville citizens in the public art process as programmatic and financial contributors.

This is a Deed of Gift to the City of Asheville from generous individuals and businesses from the Asheville community.

The Parks and Recreation Department recommends City Council approval of a resolution to accept the guidelines for the “Public Artist of the Year” competition of the Public Art Board.

Mr. Kotara then said that the Public Art Board facilitates the duties and responsibilities of the Public Art Program as outlined in the Public Art Master Plan, to include: (1) provide public art in public buildings and public spaces; (2) promote Asheville as an “arts destination” and use public art as a major attraction for cultural tourism and economic development; (3) educate the citizens and visitors about the local culture and history through art; and (4) encourage the use of public art projects.

The Public Art Board (1) raises funds to match City of Asheville appropriations; (2) approves subject matter of public art; (3) administers the procedure for the selection of public art to include public input meetings and staff review; (4) recommends to City Council the acceptance of gifts; (5) inventories public art to insure conditions and standards are met; (6) recommends maintenance, repair and deaccessioning when appropriate; and (7) recognizes the significant contribution of artists to the culture and economy of Western North Carolina.

The goals of the Public Artist of the Year Program is to (1) recognize the significant contributions of artists to the life of visual arts and public art in Asheville and Western North Carolina; (2) commission site-specific artwork at Pritchard Park in the first year, and additional locations throughout the City of Asheville in subsequent years; (3) collaborate with regional arts agencies; (4) respond to Asheville's unique sense of neighborhood culture; and (5) enhance the concept of Pritchard Park.

The site design will be in the heart of downtown Asheville; in a high pedestrian and vehicular traffic area; will utilize existing outdoor space framed by the park's architecture; and will be in the western gateway into downtown Asheville.

The budget for the Public Artist of the Year program will be \$10,000, which will include estimated costs, artists' fees, fabrication, insurance, shipping, transportation, and documentation of the work.

The selection criteria includes (1) Western North Carolina resident for at least one year; (2) demonstrate creative, innovative approach in comparable projects; (3) understanding of locale's sense of place; (4) openness to working collaboratively with project team members and city staff; and (5) ability to complete a project of this scale.

The selection process will include (1) submission of a Request for Qualifications (RFQ) to include a letter of interest; description of conceptual approach to this project; resume/vitae; images of past work; and references; (2) three member Selection Panel consisting of local artist/administrator, local business owner, regional/state artist/administrator will interview three finalists; (3) Selection Panel recommends one artist/artist team, and one alternate to the Public Art Board for review and approval; (4) Public Art Board recommends "Public Artist of the Year" to City Council for approval; (5) Artist/artist team contracted to develop design for the project; (6) final design approved by Public Art Board; (7) Public Art Board recommends final design approval to City Council; and (8) artwork fabricated and installed in coordination with Public Art Board and City staff.

When Councilman Mumpower asked about the Public Art Board's Plan to raise \$10,000, Mr. Kotara said that under City Resolution No. 99-133 the Public Art Board should receive \$55,000 annually and we only received it one time and that was six years ago. We would like to use some of those funds, noting that any dollars that we use from that must be matched through our own fund-raising efforts, e.g., Postcards from the Ledge, and granting agencies through the Parks & Recreation Department.

Councilman Mumpower felt the guidelines for the Public Arts of the Year should include a sentence stating that the Public Art Board will be charged with the responsibility for raising half of this amount and that the City Council, through whatever means they deem appropriate, will be responsible for the other half.

Councilman Mumpower also felt that the Selection Panel should be expanded because three does not have a proper balance in assuring fairness.

Vice-Mayor Jones said she would feel more comfortable with this effort if the funds are raised before the contest is launched.

Vice-Mayor Jones said that when she interviewed members for the Public Art Board that she did not ask them about fund-raising abilities or interest. She feels like she is saddling a Board with a responsibility that not all members signed up for. She also felt trepidation about City Council approving the artist/artist team in that she didn't have that expertise. She was concerned about using taxpayer dollars for something we might not be proud of because \$10,000 is probably on the low end of the scale for a good piece of public art.

Mr. Kotara felt that the \$10,000 offers a chance for an artist to be very creative and the location may offer some compelling piece of artwork that helps us to reconfigure our viewpoints of what public art is. He felt that Pritchard Park is a smaller site and that \$10,000 is a good amount. He wondered if next year we could offer more depending on the neighborhood.

Councilwoman Cape said that she didn't see anything in the RFQ about the artist understanding how public art has to function in the community, especially from a safety standpoint. She also felt that it needs to be clarified that this is a permanent piece of art. She was primarily concerned about the process of this and hoped that in the future that Council would have the opportunity to not have the publicity precede the City Council decision-making process. She also felt that \$10,000 with collaboration with the arts community could be leveraged into a lot of other things and was also concerned about asking the Public Art Board volunteers to have to fund-raise.

In response to Councilman Davis, Mr. Kotara said that the City does have the latitude of not choosing an artist if they do not receive a design that is suitable.

Councilman Mumpower's interest in this was to make sure that we start using the clout of Asheville to recognize artists and to get some public art in Asheville. With the assistance of the Public Art Board we have one piece but we need more. The \$10,000 doesn't really offer much in the form of fair compensation for a civic-minded artist's willingness to contribute to the public art of the City. But, it does represent a token of our appreciation for that contribution and it also represents an opportunity for someone to get some serious recognition as an artist. He hoped that we don't bring this to Council for approval and that we also don't take it to the Downtown Association because the danger of politicizing this comes from having too small a panel with too small of a representation. That Selection Panel should have final approval authority. Regarding the dollars, as one who brought this idea before the Council, he offered to assume personal responsibility for raising the first \$10,000 and he has done so and will be prepared with that money this year when we need it. He believed that we should not ask taxpayers to fund this effort and asked the Public Art Board to be responsible for raising half of these monies and for the Council to assume the responsibility for raising the other half of the monies. That is a more fair way to treat forced taxpayer dollars.

Councilman Freeborn supported the Public Artist of the Year Program. He supported adding two more members to the Selection Panel and let them be the final approval authority on the artist.

Councilman Newman confirmed that if this goes forward in subsequent years, the arrangement will be that the City contributes \$5,000 and the Public Art Board and/or other sources raise at least \$5,000 more. He, too, agreed in adding two more members to the Selection Panel and let them be the final approval authority on the artist.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Mumpower moved to adopt Resolution No. 07-15, approving the proposal submitted with the following modifications: (1) the City of Asheville will be responsible for raising 50% of the award funds and the Public Art Board will be responsible in raising the other 50%, with exception of the first year where those funds have been raised and no contribution by the City or the Public Art Board is necessary; and (2) expand the Selection Panel to five members as chosen by the Public Art Board as defined by the Public Art Board; and (3) we conduct this activity as a 3-year pilot project and at the end of that time it be brought back to the Council for further consideration. This motion was seconded by Councilman Davis.

Councilwoman Cape asked that the motion be amended to reflect that the Public Art Board have final design approval, not City Council. Councilman Mumpower and Councilman Davis agreed to that amendment.

Upon inquiry of Councilman Mumpower, Cultural Arts Superintendent David Mitchell said that we have already received 14 submissions from a variety of very reputable artists in Asheville.

There was a brief discussion about the process on this issue and why the publicity preceded the City Council decision-making process. Mayor Bellamy felt that as policy-makers it erodes the policy-makers ability to do their job when staff steps ahead of Council and we should not have to fear an issue having reached the public eye before Council makes a decision on it. City Manager Jackson said that he would research the minutes to investigate whether this matter was approved by Council allowing the Public Art Board to move forward. In addition, Mayor Bellamy instructed the City Clerk to provide Council with the minutes when this issue was discussed.

Vice-Mayor Jones did not feel good about the process and would vote against the motion.

Councilwoman Cape is very interested in creative initiatives but she wanted to honor the process and make sure that the things that we stand for in the community are supported by the rest of Council.

At the request of Mayor Bellamy and by a show of hands, City Council unanimously supported the idea of a Public Artist of the Year for the City of Asheville.

The amended motion made by Councilman Mumpower and seconded by Councilman Davis carried on a 5-2 vote, with Vice-Mayor Jones and Councilwoman Cape voting "no."

#### **RESOLUTION BOOK NO. 30 – PAGE 192**

At 7:30 p.m., Mayor Bellamy announced a 15-minute recess.

#### **D. OPPORTUNITIES FOR PUBLIC SAFETY PARTNERSHIP WITH HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

Police Chief Bill Hogan explained opportunities for public safety partnerships with the Housing Authority and other challenges. He outlined the police service to the Housing Authority neighborhoods, with the ultimate cost of service to the Housing Authority being \$1,712,596.

Over the past 12 months from December of 2005 to November of 2006, there have been City-wide 739 arrests - 334 dealers; public housing 308 arrests - 151 dealers; public housing accounts for 41.6% of the arrests; 70 habitual felon charges with 48 of the charges coming from drug arrests; past two years displaced dealers; and felony arrest = 3 hours/misdemeanor = 1.5 hours.

He then benchmarked Asheville's drug arrests compared to other cities, mainly in North Carolina.

The DEA Task Force has the following statistics: 16-month investigation; 32 people indicted - 27 arrested; facing sentences of 10 years to life; 27 kilos of cocaine seized; 6 pounds of methamphetamine seized; \$750,000 US currency seized; and these were major suppliers to Asheville.

In the Housing Authority (from December 24, 2006 - January 7, 2007), the Drug Suppression Unit has the following statistics: 6 felony arrests - 5 drugs; 15 felony warrants - 12 Order For Arrest (OFA); 17 misdemeanor arrests; 16 misdemeanor warrants - 14 OFA; 31 traffic citations - 15 Driving While License Revoked; and 85 total arrests in Housing Authority neighborhoods.

The Police Department is working with the Housing Authority by (1) regular meetings to discuss strategies (ban lists, ID cards, gated community, publish arrests, tow unlicensed vehicles, lighting, cameras, litter, Are You Okay Program, etc.); (2) researching the High Point Drug Market Elimination Model; and (3) examining dedicated patrol for housing.

Future analysis and plans include patrol workload analysis and response time study; examine additional patrol beats reference response time; workload analysis of Criminal Investigative Divisions and Communications Center; examine dedicated Traffic Safety Unit (38% of workload); examine dedicated Downtown Police Unit (19% of workload); examine Police Housing Authority Unit - 2 officers 24/7 (2 Sergeants and 10 officers = \$864,247); examine Police Saturation Patrol for Public Housing - 8 officers 24/7 (2 Lieutenants, 12 Sergeants and 80 officers = \$6.7 Million); Public Housing Task Force (Community Oriented Government); consider Crime Prevention Officer for Task Force (\$84,735); and new drug testing equipment evaluation.

Councilman Mumpower said that when he first decided he was going to confront Asheville's open air drug market, he received a lot of comments from people wanting him to be careful that the system or the dealers would come after him. About one hour prior to this meeting, he received an e-mail from the City Manager and Police Chief accusing him of endangering the safety of our officers, resulting from an incident Friday night around Midnight when he stopped at the West Asheville substation to report drug activity in Deaverview and Pisgah View. He suggested to the City Manager and the Police Chief that if he has in any way violated the law as a City Councilman he has no special privilege and they should arrest him and charge him. If he has not, bringing that up one hour before this meeting would seem to be an act of intimidation and they picked the wrong person.

He proceeded by saying that the City of Asheville is struggling with a problem of corruption - the corruption of indifference. An indifference to an open air hard drug market that is corrupting everyone's future. We must strengthen our efforts to fight back. A starting place is for you and me to hold up our hand, say enough, and get involved, somewhere, doing something to turn concern into action. Those who manage our public housing must also find the courage and resources to make that housing conditional upon responsible conduct. Our legislators must look harder at an overwhelmed and under-funded state court system that is ranked 48th in the country and fails us all in holding people accountable for their crimes. Finally, our police can't carry the day, but they must lead the way by refusing to surrender any neighborhood to drug crime. Together, we must all work to defeat those trafficking in hard drugs. Our future, for now, is in our hands - tomorrow it will be in theirs.

The reality is that we have an open air "tailgate market" for hard drugs throughout Asheville. It is consistent in all of our public housing developments and many other vulnerable

neighborhoods. The activity is visible, enthusiastic, and unafraid. We cannot maintain a police substation in our public housing developments due to vandalism and threat factors. We have closed at least two during his tenure. We are asking people to live there but we can't maintain stations there. Asheville has evolved into a regional resource for hard drugs. Our open air market offers an excellent model of Asheville's diversity. Black males street deal most hard drugs, white males and females purchase most hard drugs and illegal Hispanic aliens are the distributors of most hard drugs. The harms at all levels are profound and growing. The turning point for him personally, was that in December of 2006, we surrendered - City Council accepted that we had lost McCormick Heights Public Housing Development to thugs, drugs, and related crimes.

As Chair of the City Council Public Safety Committee and Chair of the Asheville-Buncombe Drug Commission, he has (1) raised concerns privately (closed session) and publicly with Council; (2) met with the City Manager and Police Chief to discuss concerns and realities; (3) collaborative discussion with the Housing Authority and he sensed there was an absence of urgency and concern and authentic effort; (4) a declined request to have weekly Police Department drug intervention observation opportunities - to fairly assess efforts; and (5) Plan B - find out more for himself - 30 visits in 30 days. He then said that since January 1, 2007, he made 30 random visits to public housing developments and vulnerable neighborhoods on different days and times. The following occurred: (1) he was directly solicited drugs 20 times; (2) he witnessed drug buys and active dealers 5 other times; (3) there were only 5 times where there was no visible activity; (4) the "tailgate market" was just as active at 7:00 a.m. as 7:00 p.m. or 12:00 p.m.; and (5) there was a police presence noted in 5 of the 30 visits - often with no impact. He was wearing a suit and driving the same visit for 22 of those visits and most of those dealers seemed to be operating out of residences in public housing. His conclusion is that regardless of our efforts to "try," we are failing to protect public housing and other vulnerable neighborhoods and have essentially surrendered entire communities to the destructive impacts of hard drug dealers, users, and their protectors. Our enforcement pressures on dealers and the users who fund them are criminally inadequate.

He explained the negative impacts of the open air hard drug market on our community. Our hospital system is overwhelmed with physically and mentally ill drug patients who come for community-funded patches and then return to their addiction. Our children in public housing are bombarded with dysfunctional cultural exposures to drug and thugs models behavior that they in turn bring to school with rippling harm to everyone's children. If you have your home or car broken into, the odds are that hard drugs were the motivation behind that property crime. Far too many families are being destroyed by members who become addicted to crack, pain killers or methamphetamine. Our social service and judicial systems are overwhelmed in their efforts to protect the abused and neglected children usually from home struggling with the impact of hard drugs. Our elderly, disadvantaged and working poor in public housing are forced to live in dangerous and frightening circumstances on a daily basis making a mockery of the intent and responsibilities of government sponsored housing.

He feels the solutions are (1) timely and proper funding for support for our judicial system by our state legislators; (2) make sure that public housing is only available to those who behave in civil fashion, abide by the rules of the development, and refuse to provide refuge for those who traffic in hard drugs; (3) everyone must stand up and say "enough" to the harm and turn fear and complacency into action; and (4) our police must recognize that they are failing to match the creativity, enthusiasm, and persistence of drug dealers and users and, with support from the City Council and community, renew their dedication. This solution is a City government responsibility.

He said that public safety is government job one. He did not believe that our city and police administration (1) have educated us as to the essential surrender of entire neighborhoods in Asheville and to the full extent of our hard drug problems; (2) have adequately assured the

manpower levels necessary to protect all our citizens - whether in Pisgah View or Kimberly Avenue - from the harms of an open air drug market; (3) have made appropriate requests for funding and other needed supports; and (4) have creatively, enthusiastically, and persistently responded to their mandate to enforce our laws - especially as it relates to hard drug traffic. He did believe that our city and police administration are choosing to stand behind hollow statistics that portray the real world realities of an unrestrained drug market.

He felt that City Council should provide a mandate that we will surrender no more neighborhoods to the harms of hard drugs and task our city and police administration to exert their fullest energies to determining effective intervention strategies, manpower and resource needs, and quality assurance measures that find us, this time next year, celebrating the passage of an open air drug market in Asheville.

We need to (1) pursue proactive (fully manned Drug Suppression Unit) vs. reactive (police cars driving around developments) intervention strategies; (2) look to New York and other cities who have implemented quick response harassment strategies which target users (where the money comes from) as well as dealers (where the money goes to) constantly; (3) enhance our concentrated, random, and persistent small unit actions - keep the traffic off guard 24 hours a day - everywhere; and (4) remember our goal to make buying hard drugs in Asheville so unpleasant and risky that we reduce the pool of new user recruits and save lives and our future in the process. Above all else, we need to get creative because they are smart, but so are we. We need to (1) learn from other cities; (2) administratively encourage initiative; (3) partner with bus drivers, cab drivers, service workers, Housing Authority staff, neighbors, and others to keep us informed; and (4) make sure that when people call with a drug tip that there is always a response, always follow-through, and always a tracked outcome.

These are things we can do right now: (1) We can hold a candle light vigil at Pack Square in the coming month for those who have lost loved ones to drug addiction and death, those who have been harmed by drug crime, those who live in proximity to drug crime, and all those who care. Bring us together and build the will and hope necessary to fighting back; (2) establish a Drug Action Team comprised of the Chief of Police, Sheriff, Chief Justice, Chief Judge, District Attorney, Drug Commission Chair and others. Their charge would be to find better ways to find our system of justice work better than the drug trafficking system that is currently more effective than we are; and (3) look to the people to fund it all - the users with special initiatives that create consequences that discourage the development of a new generation of addicts. We are not assigning people consequences and therefore too many people are being destroyed by hard drugs.

Having done his best to shine light on the realities of our hard drug intervention failures, the time for confrontation has now passed. If there is a need for future blame - let it be his for not acting sooner and with more dedication. What has not passed is the time of accountability. Together we must now recommit to attacking and winning against the harms of hard drugs. Our police officers have the talent and skills - if we have the will.

The following individuals spoke in support of confronting the open air hard drug market in Asheville:

Mr. John Hayes, President of the Asheville Branch of the NAACP  
A parent  
Mr. Chad Nesbitt  
Ms. Kara Dilworth, President of the Residents Council at Deaverview Apartments  
Ms. Selina Sullivan  
Mr. Steven Duncan

Mr. David Nash, Deputy Director of the Housing Authority, said that the U.S. Dept. of Housing and Urban Development will only be funding 76% of the recognized needs. They are again faced with severe funding difficulties. The reality is that they won't have that much money to put in a security team in the coming year as they have in the past. He thanked City Council for their support over the years and thanked the police officers and Police Chief for their efforts to help control crime in public housing. We support a request for additional funding for police officers to focus their efforts in public housing because safety is the number one concern of our residents.

Police Chief Hogan responded to various questions/comments from Council, some being, but are not limited to: what is the core issue of the drug problem; should we look to the police alone to solve the drug problems; is it harder to deal with the supply or demand of drugs; and would the Police Housing Authority Unit of 2 officers 24/7 be an overlay of existing personnel or would other things be changed in response to having that added layer of presence in public housing neighborhoods.

When Councilman Freeborn asked if money and resources were not a question what would be the solution in going forward, Police Chief Hogan said that if we are looking for the police to solve all the social issues, it is a saturation patrol, but again, we can start in public housing but still need to address other neighborhoods. That is a tremendous amount of money. The reason we want to try the High Point model is because it breaks the distribution chain in a particular neighborhood and they have had success in them not coming back.

Mr. Gene Bell, Executive Director of the Housing Authority, responded to various questions/comments from Council, some being, but are not limited to: what is the core issue of the drug problem in public housing; does public housing represent concentrated poverty; are we asking the people that we are losing to drugs what it would take not to participate; and do you think there is a way for us as a community to still provide people that are not able to find work housing without concentrating them all in one location.

When Councilman Freeborn asked if money and resources were not a question what would be the solution in going forward to combat the drug problem in public housing, Mr. Bell responded that the first thing he would do would be to ensure adequate day care for the children and have everyone employed. Part of the problem would then be resolved.

Councilman Newman said that as a country we need to do more to reward work and make it obvious that the benefits of being employed clearly outweigh the benefits of not so that people don't pursue other alternatives. He would like for the City to work with the Housing Authority in looking for ways to make that clear.

Councilman Newman stated that the standard he would like to see in public housing is for mothers to know it's safe for their children to go outside and play. He believes that a lot of people live in fear and we need to provide the kind of presence so that people feel safe. The information he is looking for is how can we work to do that and what resources do we need to do that.

Councilwoman Cape said that people need all sorts of work. We need a lot of entry level jobs where people in these housing communities can work, recognizing that some women have to be at work at 6:00 a.m. and school doesn't start until 8:30 a.m. and they don't want to leave their children alone for that time. We need to work as a community to see how we can make these jobs work for these people. There is a lot of collaborative conversations that she would like to see us be a part of, e.g., Mission Hospitals is doing some summer recruiting for kids and they will be applying for the Community Development Block Grant funds for that process. The Chamber of Commerce did a job fair, but it wasn't for entry level jobs. She suggested a job fair for 8th and 9th graders about why it's worth staying in school. She challenged us to step up to

the HUB because they are interested in understanding the economic impact of public housing, jobs, and poverty in our whole economic picture. While it is a big problem, we cannot do it with police enforcement alone. There must be a multi-level approach and she is dedicated to that.

Councilman Mumpower moved to charge our city and police administration to develop in collaboration with community partners a comprehensive, strategic and operational plan to eliminate our open air drug market in all Asheville neighborhoods. This motion was seconded by Councilman Davis.

Councilman Davis said that regarding McCormick Heights, he is pleased we are going to develop that property as mixed income housing and that is a good step towards the future. He felt that with the assets allocated, the Police Department has done a good job, but agreed that we need to get to a different place and that includes a number of facets. He thinks the Housing Authority staff is doing a good job, but there needs to be more emphasis on the maintenance of the public housing buildings. There are a lot of people doing a lot of good things, but it's just not as effective as it needs to be and we need to work harder on that problem.

Vice-Mayor Jones agreed with the idea of a comprehensive plan, but the Police Chief has said that even if it was full saturation, elimination in all neighborhoods is not possible without state and federal changes. We need bigger help. The Police Chief said that \$6.7 Million would help public housing, but then just shuffle the problem around without some bigger holistic models. Mr. Bell said that he wanted everyone to work and have access to affordable day care. Even if we don't want to hear what people have to say, we need to keep those people close and listen if we are going to win. While we are not there, she thinks we have come a long way.

Councilman Newman moved to amend the motion to (1) affirm our support for Police Chief Hogan and the men and women of the Asheville Police Department, expressing our full confidence in their dedication to protect the public safety of the citizens and have confidence in their professionalism to achieve that goal; and (2) instruct our City Manager to explore opportunities to create job opportunities and ways to reduce poverty in Asheville's neighborhoods. This motion was seconded by Councilwoman Cape.

Councilman Mumpower was not willing to accept Councilman Newman's motion as an amendment because he believed we are distracting ourselves from the main motion by going off in specific areas that do not serve our chief priority, which is to charge our police and city administrators in coming up with a plan and working with others in going after our open air drug market. He clarified that he is asking that we eliminate our open air drug market, which is quite different than the entire drug problems in Asheville.

Councilman Freeborn asked for an addition to the motion amendment to instruct the City Manager to explore affordable day care as well as job opportunities. Councilman Newman and Councilwoman Cape would accept the addition into their motion amendment.

Councilman Davis felt that we should keep the motion simple and not cloud the issue with amendments.

City Manager Jackson said that we welcome putting together a comprehensive program and to work in partnership with the Housing Authority. The suggestions made fall in line with the whole holistic approach. It will be dealing with jobs and social issues, but it doesn't mean we can take care of it in one year. He interprets the general direction of Council is to work with Mr. Bell and the Housing Authority to come up with holistic comprehensive long-range strategies. There are some completely different ways to change neighborhoods, bring mixed incomes, bring pride into those neighborhoods, make them safer, and make police presence in the neighborhoods more efficient and more effective. He also suggested that there are different roles for the City to

play. We can't do it all. One thing we should do is to have a strong partnership with the City and Housing Authority. It's time for us to compile those in an overall comprehensive plan and identify where we lead, support or get out of the way.

The amended motion to amend the main motion made by Councilman Newman and seconded by Councilwoman Cape carried on a 5-2 vote, with Councilman Davis and Councilman Mumpower voting "no."

Councilman Newman believed that the City did not give up on McCormick Heights. The City didn't own that property or control over the people operating it. We said that if it is going to be sold that we would like to preserve some affordable housing in that part of our community. A majority of Council is looking for ways to partner with people to do a redevelopment of that part of our community that will transform that part of our city from a place that was formerly a very isolated area of low income housing and transforming it into a neighborhood that includes housing that is affordable to lower and middle incomes with a much wider range of people from different economic backgrounds. It will be safer and it will be more economically vibrant and a contributory part of our community. Council is going to do what it takes to increase the safety of our neighborhoods through law enforcement, plus a transformation of neighborhoods, plus helping to create opportunities for people.

Mayor Bellamy could not negate anything anyone said. The reality is that we do need to increase police presence, but she didn't know at what level. The problem is if our police aren't as efficient or effective as they need to be, that is the City Manager's problem. If they need more bullet-proof vests, etc., Council is here to give them those tools. As Mayor, she wants to make sure that Council is making good policy and we are giving our police force the tools that they need. We all care about living in safe neighborhoods. The Housing Authority has put rules in place but they can't get enforcement. So when we come to a plan, she wants to make sure we listen to Mr. Bell and when we come up with a plan, the City needs to support the Housing Authority and stand behind the plan. We all care about this community and just because there was not unanimous support the amendment doesn't mean that we don't care about public housing.

At the request of Mayor Bellamy and by a show of hands, City Council unanimously supported safe neighborhoods.

Councilman Mumpower stated that we lost an affordable housing development (McCormick Heights) to crime and safety issues and he saw no concern about that from City Council. There was no call to rededicate our efforts in any way to address the loss of an entire development.

At the request of Mayor Bellamy and by a show of hands, no one on City Council raised their hands in support of an open air drug market in Asheville.

At the request of Mayor Bellamy and by a show of hands, City Council unanimously supported the elimination of the open air drug market in Asheville.

The amended main motion to (1) charge our city and police administration to develop in collaboration with community partners a comprehensive, strategic and operational plan to eliminate our open air drug market in all Asheville neighborhoods; (2) affirm our support for Police Chief Hogan and the men and women of the Asheville Police Department, expressing our full confidence in their dedication to protect the public safety of the citizens and have confidence in their professionalism to achieve that goal; and (3) instruct our City Manager to explore opportunities to create job opportunities and affordable health care and ways to reduce poverty in

Asheville's neighborhoods carried on a 5-2 vote, with Councilman Davis and Councilman Mumpower voting "no."

**VI. NEW BUSINESS:**

**A. CONSIDERATION OF APPOINTMENTS TO THE ALCOHOLIC BEVERAGE CONTROL BOARD, BOARD OF ADJUSTMENT, COMMUNITY RELATIONS COUNCIL, DOWNTOWN COMMISSION, ECONOMIC DEVELOPMENT ADVISORY COMMITTEE, FIREMEN'S RELIEF FUND, GREENWAY COMMISSION, METROPOLITAN SEWERAGE DISTRICT BOARD, PUBLIC ART BOARD, RECREATION BOARD, TRANSIT COMMISSION AND TREE COMMISSION**

It was the consensus of Council to instruct the City Clerk to (1) prepare the proper paperwork to reappoint Ken Kaplan; and (2) arrange the following interviews for vacancies on the Alcoholic Beverage Control Board: Wiley Neal Evans, DeRothea G. Williams and William C. Dickason.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Lee McElrath (Alternate). Vice-Mayor Jones said that she would investigate the attendance process for Alternate members on the Board of Adjustment prior to filling the second vacancy.

It was the consensus of Council to instruct the City Clerk to arrange the following interviews for vacancies to the Community Relations Council: Martha Swindell Brown, Sharon West, Craig White, Amanda Hendler-Voss, Clare Hanrahan, Michael Vavrek, Ira Naiman and Shirley Schultz.

It was the consensus of Council to instruct the City Clerk to (1) prepare the proper paperwork to reappoint Peter Alberice, Jesse Plaster, John Rogers and Guadalupe Chavarria; and (2) readvertise for one month in order to give the Downtown Commission the opportunity to see if there are some people that possess certain qualities that would be helpful for the Commission; and (3) advise Council of the specific requirements for members and include those qualifications necessary in the advertisements.

At the request of Sustainable Economic Development Advisory Committee Chairman Chuck Tessier, it was the consensus of Council to instruct the City Clerk readvertise for two months for the vacancies on that Committee.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Leesa Gibbs to the Firemen's Relief Fund.

After Vice-Mayor Jones said that City Council would need a formal letter from Mr. Jack Saye requesting the Greenway Commission be expanded and that Mr. Yuri Koslen (who did not apply to serve) be appointed, it was the consensus of Council to instruct the City Clerk to (1) prepare the proper paperwork to reappoint Phyllis Styles; (2) arrange the following interviews for vacancies on the Greenway Commission: Glen Locascio, Hartwell Carson and Dawa Clark.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Mayor Terry Bellamy to the Metropolitan Sewerage District Board.

It was the consensus of Council to instruct the City Clerk to (1) prepare the proper paperwork to appoint Harry Harrison; and (2) arrange the following interviews for vacancies on the Public Art Board: Julie Calhoun-Roepnack and Lisa Messa.

It was the consensus of Council to instruct the City Clerk to arrange the following interviews for vacancies on the Recreation Board: Scott Barnwell, Carolyn Stanberry and Adam Pittman.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to appoint Yuri Koslen and reappoint Hanna Miller, Andrew Goldberg, Ryan Pickens and Karen Austin to the Transit Commission.

It was the consensus of Council to instruct the City Clerk to (1) call Ms. Catherine Shane to see if she would be interested in serving and if so, prepare the proper paperwork to appoint Ms. Shane; and (2) arrange the following interviews for vacancies on the Tree Commission: Bill Hascher, Laura Uberbacher and Mary Carol Koester.

**B. APPOINTMENT OF LIAISON TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY AND THE ENVIRONMENT**

It was the consensus of City Council to prepare the proper paperwork to appoint Councilwoman Cape as liaison to the Sustainable Advisory Committee on Energy and the Environment.

**C. RESOLUTION NO. 07-16 - RESOLUTION ALLOCATING \$670,000 IN HOUSING TRUST FUND LOANS FOR AFFORDABLE HOUSING DEVELOPMENT**

At the request of Mayor Bellamy, Councilman Freeborn moved to excuse Mayor Bellamy for the rest of the meeting. This motion was seconded by Councilman Mumpower and carried unanimously.

At this time, Mayor Bellamy turned the meeting over to Vice-Mayor Jones.

Ms. Charlotte Caplan, Community Development Director, said that this is the consideration of a resolution allocating \$670,000 in Housing Trust Fund loans for affordable housing development.

The following three Housing Trust Fund applications have been evaluated by the HTF review panel and recommended for approval by the Housing and Community Development Committee at the January 8 meeting. Currently over \$1.35 million is available in the Housing Trust Fund. The requests are summarized below.

1. Carolina Cornerstone Construction; 27 Jeffress Ave; \$50,000 HTF loan; 1 unit

*Terms:* 2% interest, 2 year term; up to \$30,000 available as a soft second to eligible homebuyer

*Strengths:* The applicant has extensive affordable housing construction experience. The developer is doing this job at cost (i.e. no profit or developer fee) to make the home affordable to a low-income employer and his family who are being displaced from a mobile home park.

*Concerns:* CCC has less experience as a developer, but this is a small project and construction represents most of the work.

2. Mountain Housing Opportunities; The Glen Rock; \$500,000 HTF loan; 60 units

*Terms:* 2% annual interest payments, with principal repayment deferred for 20 years

*Strengths:* MHO has successfully developed several similar Tax Credit projects in Asheville. The proposed rents are exceptionally affordable, with some units being affordable to households with

income below 40% AMI. Tax credit regulations require long-term affordability. This affordable housing will be part of a larger redevelopment plan on this site which seeks to connect the revitalizing River Arts District and the Southside Community.

*Concerns:* The project is contingent on tax credit approval in July 2007. However, if tax credits are awarded, the development will then likely proceed successfully.

3. Tim and Wendy Vorst; 4 Haywood Terrace; \$120,000 HTF loan; 4 units

*Terms:* 2% interest, 30 year term

*Strengths:* The developer has an excellent track record with Housing Trust Fund projects, with timely completion of projects and rents remaining affordable. The estimated development costs are low and the developer is contributing significant equity to the project.

*Concerns:* The units are not particularly energy efficient and long-term affordability (beyond the required 3 years) will not be guaranteed.

Pros:

- Assists with the development of 65 units of affordable housing;
- Completed projects will increase the tax base by over \$4.5 million

Cons: None

Staff recommends approval of the HTF loans listed above.

Vice-Mayor Jones said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Mumpower moved for the adoption of Resolution No. 07-16. This motion was seconded by Councilwoman Cape and carried unanimously.

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**VII. OTHER BUSINESS:**

**A. CLAIMS**

The following claims were received by the City of Asheville during the period of December 22, 2006 - January 11, 2007: Charter Communication (Water), Lane Godsey (Water), Marcie Swoveland (Parks & Recreation), Britt Jacobs (Police), Noel Calloway (Sanitation), Alan Robinson (Water), Jennifer N. Briggs (Police) and Chad Hockenberry (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

**VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

**IX. ADJOURNMENT:**

Vice-Mayor Jones adjourned the meeting at 10:08 p.m.

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CITY CLERK

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MAYOR